



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

January 8, 2015

Dr. Jules Glanzer  
President  
Tabor College  
400 South Jefferson  
Hillsboro, KS 67063

Dear Dr. Glanzer:

The purpose of this letter is to respond to your December 3, 2014, letter to the U.S. Department of Education, Office for Civil Rights (OCR), in which you requested a religious exemption from Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. § 1681, for Tabor College (College) of Hillsboro, Kansas. Title IX prohibits discrimination on the basis of sex in any education program or activity operated by a recipient of Federal financial assistance.

The implementing regulation at 34 C.F.R. § 106.12 provides that Title IX does not apply to an educational institution controlled by a religious organization to the extent that application of Title IX would be inconsistent with the controlling organization's religious tenets. Therefore, such educational institutions are allowed to request an exemption from Title IX by identifying the provisions of Title IX that conflict with a specific tenet of the religious organization. The request must identify the religious organization that controls the educational institution and specify the tenets of that organization and the provisions of the law and/or regulation that conflict with those tenets.

Your request stated that the College was founded "by members of the Mennonite Brethren and Krimmer Mennonite Brethren faiths" and that it "has always existed for the purpose of providing education consistent with the beliefs of the Mennonite Brethren denomination." Your letter explains that the College's Bylaws state that "the corporate owners of the college are 'the church congregations which are members of the Central District Conference, the Southern District Conference, the Latin American District Conference and the North Carolina District Conference of Mennonite Brethren Churches,'" and require that "a majority of the Board of Directors be elected by these four district conferences." Your letter further notes that the Bylaws of the College require that any "doctrinal statement or other rules and/or regulations issued by the Corporation or the College shall be in complete harmony with" the Confession of Faith of the United States Conference of the Mennonite Brethren Churches (Confession of Faith).

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Your exemption request points to a recent OCR resolution agreement in which a school district agreed to allow a transgender male student to use the restroom, locker room, and living facilities consistent with the student's gender identity, and to play on boys' athletic teams. You explain that "[b]ecause of its deeply held faith-based convictions regarding the distinctiveness of males and females, Tabor College would not be able to provide the kind of accommodation required" in that resolution agreement. You state that, for these reasons, the University seeks an exemption from Title IX to the extent that Title IX prohibits discrimination based on gender identity. Specifically, you cite to the Confession of Faith, which states that "God created them [humans] male and female in the image of God." Your letter states that the College cannot "support or encourage an individual to live in conflict with biblical principles in any area, including gender and gender identity." We interpret these statements as a request for exemption from provisions 34 C.F.R. §§ 106.32 (governing housing), 106.33 (governing comparable facilities such as restrooms and locker rooms), and 106.41 (governing athletics). The College is exempt from these provisions to the extent that they require a recipient to treat students consistent with their gender identity, but doing so would conflict with the controlling organization's religious tenets.

Please note that this letter should not be construed to grant exemption from the requirements of Title IX and the regulation other than as stated above. In the event that OCR receives a complaint against your institution, we are obligated to determine initially whether the allegations fall within the exemption here granted. Also, in the unlikely event that a complainant alleges that the practices followed by the institution are not based on the religious tenets of the controlling organization, OCR is obligated to contact the controlling organization to verify those tenets. If the organization provides an interpretation of tenets that has a different practical impact than that described by the institution, or if the organization denies that it controls the institution, this exemption will be rescinded.

I hope this letter responds fully to your request. If you have any questions, please do not hesitate to contact me.

Sincerely,



Catherine E. Lhamon  
Assistant Secretary for Civil Rights  
U.S. Department of Education